



United States Courts for the Ninth Circuit

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NEWS RELEASE

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Court of Appeals to Hold Special Sitting at University of Washington

SEATTLE – The Ninth Circuit Court of Appeals will hold a special sitting May 5 at the University of Washington School of Law. Oral arguments begin at 9:00 a.m. in the Magnuson/Jackson Moot Courtroom in William H. Gates Hall, located at the intersection of 15th Ave NE and 43rd Street NE, Seattle.

An appellate panel consisting of Circuit Judges M. Margaret McKeown and Richard R. Clifton, and District Judge David A. Ezra of Hawaii, sitting by designation, will hear appeals of rulings by the federal district courts for western and eastern Washington, and decisions by the Board of Immigration Appeals (BIA) and National Labor Relations Board (NLRB). The cases on the docket are:

- *Washington Education Association v. National Right to Work*, in which the Washington Education Association (WEA), the collective bargaining union representing Washington public education employees, appeals the district court's judgment dismissing its diversity breach of contract action against the National Right to Work Foundation. WEA alleged that the foundation violated an agreement which settled prior to the 1996 litigation, (*Leer v. WEA*), over the agency fees charged to employees by WEA. WEA contends that the Leer agreement bars the foundation from supporting any later litigation challenging WEA's agency fees. Case 04-35772.
- *Jouzine v. Gonzales*, in which Jim Abdalla Jouzine, a native and citizen of Israel, petitions for review of the BIA's summary affirmance without opinion of an immigration judge's order on remand finding him excludable based on his misrepresentation of facts in his testimony in support of his application for adjustment of status based on his 1993 marriage to a United States citizen. Case 04-72573.

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- *Sowah v. Gonzales*, in which Justice Okoe Sowah, a native and citizen of Ghana, petitions for review of an order of the BIA affirming without opinion an immigration judge's denial of his application for adjustment of status. Sowah sought adjustment of status in order to pursue a waiver of inadmissibility under U.S.C. § 1182. Case 04-74409.
- *Atkins v. Praxair*, in which Roger Atkins, John Peel and Cheri Peel appeal the district court's summary judgment in favor of Praxair, Inc., in their action for wrongful termination in violation of public policy under the state of Washington's Minimum Wage Act. The case was removed to federal court after Praxair asserted preemption under § 301 of the Labor Management Relations Act (LMRA). The district court held that the LMRA preempted plaintiffs' claims because they alleged breach of the terms and conditions of a union contract and determination of those claims require interpretation of the provisions of that contract. The district court further held that plaintiffs' § 301 claims were time-barred because they failed to appeal an arbitrator's award in their union arbitration under the collective bargaining agreement, and that even if their claims were not time-barred, they are barred by terms of a settlement agreement signed in a separate state court wage and hour action. Case 04-35846.
- *Bridgeport Way Comm v. Lakewood*, in which the Bridgeport Way Community Association and individual association members appeal the district court's summary judgment in favor of the City of Lakewood, Wash., and others in the Association's 42 U.S.C. § 1983 action alleging that the city violated the association's constitutional First Amendment rights of free speech and the right to petition their elected officials, arising from Wal-Mart Stores, Inc.'s proposal to construct a new Wal-Mart store on Bridgeport Way in Lakewood. Wal-Mart proposed legislation to amend the city's Comprehensive Plan and zoning code, which would enable its proposed development. Association members sought to informally discuss the proposed amendments with the City Council members, the City Attorney prohibited the discussions, and the City Council voted to approve the amendments. Case 04-35915.
- *Systems West v. NLRB*, in which Systems West LLC petitions for review of a decision and order of the NLRB affirming an administrative law judge's decision finding that Systems West violated § 8(a)(1) of the Labor Management Relations Act during a campaign by the carpenters union to organize workers. The NLRB also sustained the union's objections to the election and ordered a new election. Case 04-74764. The NLRB cross-petitions to enforce its order. Case 04-76211.

The Ninth Circuit Court of Appeals regularly hears cases in San Francisco, Pasadena and Seattle, and also travels periodically to other cities within the circuit to hold court.

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